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This colloction of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentially is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and autimiting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Offices, U.S. Department of Commorce, P.O. Box 1450, Alexandria, VA 22313-1450, DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DEC 3 0 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:

Robert L. Payer

Confirmation No:

4417

Application No:

09/885,226

Group:

2839

Filed:

June 20, 2001

Examiner:

Hyeon, Hae M.

For:

No.

Solid-Phase Welded Optical

Element Attach Process

Customer No.:

25263

Attorney Docket

1065us

PRETITION TO WITHDRAW WITHHOLDING OF ABANDONMENT

VIA FACSIMILE: 571-273-8300

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

In response to the Notice of Abandonment dated November 16, 2005, applicants' attorney respectfully requests that the holding of abandonment be withdrawn.

The application was abandoned for failure to reply to the Office Action mailed on 07 April 2005.

Applicants responded in a timely manner to the Office Action dated April 7, 2005, by facsimile transmitting a "Third Request to Reinstate Appeal" to the U. S. Patent and Trademark Office on August 8, 2005. A return receipt confirmation was received from the U.S. Patent Office on August 8, 2005.

Attached is a copy of the "Third Request to Reinstate Appeal" as originally filed on August 8, 2005, including the transmittal form and fee transmittal which accompanied the request. Also attached is a copy of the Auto-Reply Facsimile Transmission received

Application No.: 09/885,226

Amendment dated: December 30, 2005 Reply to Office Action of November 16, 2005

Attorney Docket No.: 1065us

from the U.S. Patent Office, confirming receipt of the original 4 pages transmitted by applicant on August 8, 2005.

It is believed that no fee is due with this petition. If a fee is due, authorization is given to charge our deposit account number 501547.

Respectfully submitted,

J. Grant Houston

Registration No.: 35,900 Tel.: 978-439-3479

Fax: 978-262-0035

Billerica, Massachusetts 01821 Date: December 30, 2005

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DEC 3 0 2005 PYO/\$B/21 (09-04) Approved for use through 07/31/2008, OMB 0551-0031 U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of Information unless it displays a valid OMB control number **Application Number** 09/885,226 TRANSMITTAL Filing Date June 20, 2001 **FORM** First Named Inventor Robert L. Payer Art Unit 2839 Examiner Name Hyeon, Hae M. (to be used for all correspondence after initial filing) Attomey Docket Number 1065us Total Number of Pages in This Submission **ENCLOSURES** (Check all that apply) After Allowance Communication to TC 4 Fee Transmittal Form Drawing(s) Appeal Communication to Board Fee Attached Licensing-related Papers of Appeals and Interferences Appeal Communication to TC 101 Amendment/Reply Petition (Appeal Notice, Brief, Roply Brief) Petition to Convert to a After Final Provisional Application Proprietary Information Power of Attorney, Revocation Affidavits/declaration(s) Status Letter Change of Correspondence Address Other Endosure(s) (please Identify Extension of Time Request Terminal Disclalmer below); Express Abandonment Request Request for Refund CD, Number of CD(s) Information Disclosure Statement Landscape Table on CD Certified Copy of Priority Remarks Document(s) Reply to Missing Parts/ Incomplete Application Reply to Missing Parts under 37 CFR 1.52 or 1.53 SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT Firm Name Houston Eig Signature Printed name Grent House Date Reg. No. August 8, 2005 35,900 CERTIFICATE OF TRANSMISSION/MAILING I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: Signature Handalia Clairi

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Date

August 8, 2005

Claire J. Handalian

Typed or printed name

DEC 3 0 2005

PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0551-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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DEC 3 0 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:

Robert L. Payer, et al.

Serial No:

09/885,226

Group:

2839

Filed:

June 20, 2001

Examiner:

Hyeon, Hae M.

For:

Solid-Phase Welded Optical

Element Attach Process

Confirmation No:

Date: August 8, 2005

THIRD REQUEST TO REINSTATE APPEAL

VIA FACSIMILE: 671-273-8300
Mail Stop Appeal Brief- Patents
Assistant Commissioner for Patents
P.O. Box 1450,
Alexandria, Virginia 22313-1450

Sir:

The Supplemental Appellants' Brief filed on April 22, 2004 included a request to reinstate the appeal pursuant to 37 C.F.R. 1.193(b) (2) (ii). Subsequently, a third Final Office Action was issued on June 22, 2004.

In response, Appellants' filed a second Request to Reinstate Appeal as it is counsel's understanding that, pursuant to 37 C.F.R. 41.39(b) (2), that this application should before the Board.

In response to Appellants' Second Request to Reinstate Appeal, still another Office Action was issued. In response, Appellants against request that the appeal be maintained.

The rules do not provide for such Actions. The rules certainly do not afford Appellants the right to respond to such Office Actions after appeal and after the filing of a Request to Maintain Appeal pursuant to 37 C.F.R. 41.39(b) (2), nor should the rules provide for such extension of prosecution in an application potentially subject to term extension. Moreover, the entire process of continuing to issue Office Actions after the Appellants have paid for the appeal and thrice requested review by the Board seems



8 August 2005 Application No.: 09/885,226 Docket: 1065.us

unfair. Appellants simply cannot justify the expense of filing an entirely new appeal and Brief for this application. They thus request review by the Board.

This Application should be before the Board of Appeals.

Should any questions arise, please contact the undersigned.

Respectfully submitted

J. Grant Houston

Registration No.: 35,900 Axsun Technologies, Inc. Tel.: 978-439-3479

Fax: 978-262-0035

Billerica, MA 01821 Date: August 8, 2005



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